

Myths and Facts about the EPA's *Bristol Bay Watershed Assessment and the Pebble Mine*

MYTH: The EPA used a “fantasy mine” for the scenario in its draft Bristol Bay Watershed Assessment. There is still no “plan” for the Pebble mine so how can the EPA evaluate it?

FACT: Northern Dynasty Minerals – a 50% owner of the Pebble Limited Partnership (PLP) - filed a detailed plan for the mine with the Securities and Exchange Commission in 2011. Northern Dynasty described the mining scenarios in the report as “*economically viable, technically feasible, and permissible.*”ⁱ This legal document, filed with a federal agency, is precisely the detailed mining plan on which the EPA based its evaluation.

EPA also relied on permits PLP filed with the State of Alaska in 2006, which provide **hundreds of pages** of information, maps, and descriptions of the Pebble mine. The applications specify the location of the Pebble deposit and the overall mine plans and infrastructure including the location of the proposed open pit, two proposed tailings storage facilities, water treatment facility, drainage ditches, transportation and road corridor, deep water port, and water transmission routes.ⁱⁱ

Further, as the EPA makes clear in its Watershed Assessment, even “final” plans are subject to change: “Even an Environmental Assessment of a proposed plan by a mining company would be an assessment of a scenario that undoubtedly would differ from the ultimate development.”ⁱⁱⁱ

MYTH: The Watershed Assessment is a “federal overreach” that ignores local voices and will kill jobs.

FACT: An overwhelming majority of local residents, businesses, and legislators from both parties have spoken out against this dangerous mine. EPA received over 223,000 comments from the public with over 95% support. Approximately 93% of the people who testified at EPA’s six public hearings in Bristol Bay villages opposed the proposed Pebble mine. EPA’s work in Bristol Bay is supported by local residents, Native Corporations, 100 commercial fishing groups and companies, over 900 sportfishing and hunting groups and businesses, well over 55% of Alaskans, the National Council of Churches and many other organizations. Ten sitting United States Senators and thirteen Congressmen and women have also gone on record supporting the science of the Watershed Assessment and urging protective action.

Bristol Bay supports 14,000 jobs and a \$1.5 billion annual economy, which would all be put in jeopardy by the proposed Pebble mine. Should the EPA use its Clean Water Act authority in Bristol Bay, it will protect thousands of good, American jobs and one of the last salmon-dependent cultures in the world.

MYTH: The Watershed Assessment is based on flawed science and not supported by law.

FACT: An independent, expert review **never** called the science of the Watershed Assessment into question. The peer reviewers did request more information and noted:

This Assessment presents a “comprehensive overview of current conditions and establishes the global uniqueness of the area to salmon ecology.” (Atkins)

“The Assessment presents a well documented discussion of the fish and wildlife resources of the Nushagak and Kvichak River Watersheds, with more limited discussions on the remainder of the Bristol Bay watershed.” (Webber Scannell)

“My point is that probable environmental consequences of mining activities are much greater than this report alludes to, given that consequences are likely, even if their magnitude is uncertain.” (Dauble)

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“Make no mistake we cannot have both mining and productive salmon stocks in the Bristol Bay watershed. . . As a result of the mining operation, the government will be saddled with a 1000 years (at minimum) of monitoring and maintenance of this closed site.” (Stein)

Further, as of the release of the Second Draft of the Watershed Assessment, over 300 internationally recognized scientists have signed a letter validating the work of the EPA, and expressing deep concerns about the prospects of large-scale mining in the Bristol Bay Watershed.

In addition, a court recently ruled that EPA has the legal authority and obligation to protect places like Bristol Bay from toxic mining waste “**whenever**” it deems necessary. A recent DC Circuit Court Decision in *Mingo Logan Coal Company v. USEPA* found in favor of USEPA regarding its authority to prohibit, restrict or deny an area for specification “whenever” it determines that a discharge will have an “unacceptable adverse effect” on identified environmental resources.^{iv} Using the expansive term “whenever,” the Congress made plain its intent to grant the Administrator authority to prohibit/deny/restrict/withdraw a specification at *any* time.^v The Watershed Assessment clearly demonstrates that unacceptable adverse effects will result from the Pebble mine if it is built.

MYTH: Alaska has a rigorous permitting system in place that both protects salmon and salmon habitat and allows for meaningful public participation in agency permitting decisions.

FACT: While PLP wrongly criticizes EPA for federal overreach, the Alaska Legislature and the Parnell Administration have worked aggressively to lower planning and permitting standards, inhibit the ability of the public to participate in agency decision-making and shut the courthouse door to those who might disagree with its decisions during a permitting process. The Parnell Administration’s own employees at the Department of Natural Resources have described the Alaska permitting process as a rubber stamp for the mining industry. Commercial fishermen are now calling these efforts a “war on salmon and salmon jobs.”

The Bottom Line: Now more than ever, the residents of Bristol Bay and 14,000 hard working Americans who depend on Bristol Bay are calling on the EPA and the Obama Administration for help. Should the administration act, its decision will be based on the rock-solid scientific evidence of the Watershed Assessment rather than the influence of multi-national mining companies.

ⁱ Northern Dynasty Minerals, Inc., *Pebble Project – Preliminary Assessment Technical Report*, page 4 (February 17, 2011), available at http://www.northerndynastyminerals.com/i/pdf/ndm/Pebble_Project_Preliminary%20Assessment%20Technical%20Report_February%2017%202011.pdf

ⁱⁱ Northern Dynasty Minerals, Inc., *Application for Water Rights South Fork Koktuli River*, LAS 25871 (July 7, 2006), available at <http://dnr.alaska.gov/mlw/mining/largemine/pebble/water-right-apps/index.cfm>.

ⁱⁱⁱ Environmental Protection Agency, *Bristol Bay Assessment Executive Summary*, ES27 (April 2013), available at http://www.epa.gov/ncea/pdfs/bristolbay/bristol_bay_assessment_erd2_2013_vol1_exec_summary.pdf

^{iv} *Mingo Logan Coal Co. v. EPA*, Case # 12-5150 at page 9 (D.C. Cir., April 23, 2013).

^v *Id.*

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